REMARKS

STATUS OF THE CLAIMS

Following entry of this Amendment, claims 1, 2, and 4 will be pending. Please cancel Claims 3 and 5. Claims 1 and 4 have been amended. Applicants reserve their right to later pursue the subject matter of the cancelled claims and the claims prior to their amendment in this response in continuing applications.

I. OBJECTIONS TO THE SPECIFICATION

The Examiner objected to the specification for not complying with 37 CFR § 1.821(d), for the use of "SEQ ID N°" and "SEQ ID No" instead of "SEQ ID NO:".

Applicants have amended the specification to comply with 37 CFR § 1.821(d). Applicants request that this objection be withdrawn.

II. REJECTION UNDER 35 U.S.C. § 102(a)

The Examiner has rejected claims 1, 3, 4 and 5 under 35 U.S.C. 102(a) as allegedly being anticipated by Brown et al. (1998) *J. Biol. Chem.* 39: 25458-25465.

Applicants respectfully maintain that claims 1, 2, and 4, as amended, are not anticipated by Brown et al. Claim 1, the only pending independent claim, has been amended to recite, in part, that the secreted soluble recombinant calcium channel α2δ-1 subunit polypeptide is selected from the group consisting of SEQ ID NO: 13, 14 and 15. Brown et al., however, fail to disclose a polypeptide that is identical to SEQ ID NO: 13, 14, or 15. Therefore, Brown et al. do not disclose all of the limitations of the claimed invention. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 102(a) be withdrawn.

III. REJECTION UNDER 35 U.S.C. § 103(a)

The Examiner rejected claim 2 under 35 U.S.C. § 103(a) as allegedly being obvious over Brown et al. (September 25, 1998) *J. Biol. Chem. 273:* 25458-25465, in view of Holland *et al.* (1994) *Anal. Biochem.* 222: 516-518. The current Office Action alleges that it would have been *prima facie* obvious to combine the method of Brown et al. with the flashplate assay of Holland et al.

Applicants respectfully disagree with the Examiner's contentions with regard to the claims as amended. As set forth in M.P.E.P. § 2143, "[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, not in the Applicants' disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." As the Federal Circuit has also stated, "[a] general incentive does not make obvious a particular result, nor does the existence of techniques by which those efforts can be carried out." In re Deuel, 34 USPQ2d 1210, 1216 (Fed. Cir. 1995).

As set out above, Brown fails to disclose SEQ ID NO: 13, 14, or 15. As such, Brown et al. and Holland et al., alone or in combination, fail to disclose the claimed limitation of a polypeptide of SEQ ID NO: 13, 14, or 15. Accordingly, there can be no motivation to combine what has not been disclosed in either of the cited references. Therefore, the claimed invention is non-obvious under 35 U.S.C. § 103(a) over the cited references. Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe that all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at 734-622-2095.

Respectfully submitted,

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